

COMMODITY FUTURES TRADING COMMISSION
ENERGY MARKETS ENFORCEMENT RESULTS

October 25, 2007

I. Summary:

This memorandum provides an overview of the Commodity Futures Trading Commission's ("CFTC") recent efforts to address alleged wrongdoing in the energy markets. From December 2002 to date, the CFTC has filed a total of 39 enforcement actions charging a total of 64 respondents/defendants (38 companies¹ and 26 individuals). The CFTC has obtained \$433,598,500 in civil monetary penalties (see Section II, below) in settlement of these enforcement actions.² Six CFTC energy market-related enforcement actions remain pending (see Section III, below). Complementing the effect of its direct enforcement action, the CFTC has also achieved great success in this program area by working cooperatively with the Department of Justice on criminal actions (see Section IV, below).

II. Enforcement Actions Filed and Settled:

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
1.	Dynegy Marketing And Trade; West Coast Power LLC	\$5 million	2	12/19/02	False reporting (both companies) Attempted manipulation (both companies)	Houston, TX
2.	El Paso Merchant Energy, L.P.	\$20 million	1	3/26/03	False reporting Attempted manipulation	Houston, TX

¹ Enforcement actions remain pending against six of the 38 companies charged: Amaranth Advisors L.L.C.; Amaranth Advisors (Calgary) ULC; Concord Energy, LLC; Energy Transfer Partners, LP; Energy Transfer Company (a/k/a/ La Grange Acquisition, L.P.); ETC Marketing, Ltd; and Houston Pipeline Company.

² The Commission has settled 33 enforcement actions with all named defendants/respondents. It has also reached settlements with some, but not all, of defendants in following two enforcement actions (see *CFTC v. McDonald, et al.*, No. 1:05-CV-0293 (N.D. Ga. filed Feb. 1, 2005) (settled with Christopher McDonald and Michael Whalen; still pending against Paul Atha); and *CFTC v. Reed, et al.*, No. 05-D-178 (D. Colo. filed Feb. 1, 2005) (settled with Danyluk, McLaughlin, and Concord Energy, LLC; still pending against Reed)).

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
3.	W. D. Energy Services, Inc. (Encana)	\$20 million	1	7/28/03	False reporting Attempted manipulation	Houston, TX Denver, CO
4.	Williams Companies Williams Energy Marketing and Trading	\$20 million	2	7/29/03	False reporting (both companies) Attempted manipulation (both companies)	Tulsa, OK
5.	Enserco Energy, Inc.	\$3 million	1	7/31/03	False reporting Attempted manipulation	Golden, CO
6.	Duke Energy Trading And Marketing, L.L.C.	\$28 million	1	9/17/03	False reporting Attempted manipulation	Houston, TX Salt Lake City, UT
7.	Reliant Energy Services, Inc.	\$18 million	1	11/25/03	False reporting Attempted manipulation Wash sales	Houston, TX
8.	CMS Marketing Services & Trading CMS Field Services	\$16 million	2	11/25/03	False reporting (both companies) Attempted manipulation (both companies)	Tulsa, OK

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
9.	Aquila Merchant Services	\$26.5 million	1	1/28/04	False reporting Attempted manipulation	Kansas City, MO
10.	e prime, Inc. (Xcel)	\$16 million	1	1/28/04	False reporting Attempted manipulation	Denver, CO
11.	Entergy Koch Trading, L.P. (EKT)	\$3 million	1	1/28/04	False reporting	Houston, TX
12.	ONEOK Inc. ONEOK Energy Mkt'g and Trading Company, L.P.	\$3 million	2	1/28/04	False reporting (both companies)	Tulsa, OK
13.	Calpine Corporation	\$1.5 million	1	1/28/04	False reporting	Houston, TX
14.	Enron Corp. (settled May 28, 2004) Hunter S. Shively (July 16, 2004)	\$35 million (as to Enron) \$300,000 (as to Shively)	1 1 individual	5/13/04 – bankruptcy court order	Manipulation or attempted manipulation (Enron and Shively) Operating an illegal futures exchange (Enron only) Trading an illegal, off-exchange agricultural futures contract (Enron only)	Houston, TX

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
15.	Joseph B. Knauth, Jr.	\$25,000	1	5/10/04	Wash trading Non-competitive trading, Causing non-bona fide prices to be reported	Houston, TX
16.	Robert Benjamin Harmon, Jr.	\$7,500	1	1/16/04	Wash trading Non-competitive trading, Causing non-bona fide prices to be reported	Cos Cob, Connecticut
17.	Western Gas Resources, Inc.	\$7 million	1	7/1/04	False reporting Attempted manipulation	Denver, CO
18.	Coral Energy Resources, L.P.	\$30 million	1	7/28/04	False reporting Attempted manipulation	Houston, TX
19.	Byron Biggs	\$30,000	1	8/11/04	Wash trading Non-competitive trading, Causing non-bona fide prices to be reported	Ft. Worth, TX

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
20.	BP Energy Company	\$100,000	1	11/4/04	Wash trading Non-competitive trading, Causing non-bona fide prices to be reported	Houston, TX
21.	Cinergy Marketing & Trading, L.P. (successor in interest to Cinergy Marketing & Trading, L.L.C.	\$3 million	1	11/16/04	False Reporting	Cincinnati, OH
22.	Mirant Americas Energy Marketing, L.P.	\$12.5 million	1	12/6/04	False reporting Attempted manipulation	Atlanta, GA
23.	American Electric Power Company, Inc. AEP Energy Services, Inc.	\$30 million ³	2	S.D. Ohio filed 9/30/03 settled 1/26/05	False reporting (both companies) Attempted manipulation (both companies)	Columbus, OH
24.	Brion Scott McKenna	Registration revoked	1 individual	05/20/05	Manipulation	Tulsa, OK

³ AEPES entered into a deferred prosecution agreement (Agreement) with the U.S. Department of Justice and the U.S. Attorney's Office for the Southern District of Ohio to avoid federal criminal charges. The Agreement requires AEPES to pay a \$30 million criminal penalty to resolve an investigation into AEPES' false reporting of natural gas trades. Additionally, AEP accepted a settlement agreement with the FERC to resolve an investigation into the natural gas storage and transportation activities of two intrastate pipeline units formerly owned by AEP and AEP-affiliated marketers. The FERC settlement requires AEP to pay a \$21 million civil penalty and to adopt a compliance plan to prevent future violations. Total Settlement with US Government was \$81 million.

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
25.	Shell Trading US Company Shell International Trading and Shipping Co. Nigel Catterall	\$300,000	3	1/4/2006	Fictitious Sales & Noncompetitive Trades - Prearranged Trading (NYMEX Crude Oil Futures)	Houston, Texas (STUSCO) London, UK (STASCO)
26.	Dominion Resources, Inc.	\$4,250,000	1	9/27/2006	False Reporting	Richmond, VA
27	Joseph Foley	\$350,000	1	filed – 9/14/2005 settled - 9/28/2006	false reporting and attempts to manipulate	Columbus, OH
28	Christopher McDonald Michael Whalen	\$350,000 (McDonald); \$200,000 (Whalen)	2	filed 2/1/2005 settled 11/17/2006	false reporting and attempted manipulation	Atlanta, GA (McDonald) Houston, TX (Whalen)
29.	NRG Energy, Inc.	\$2,000,000	1	filed 7/1/2004 settled 2/13/2007	false reporting	Minneapolis, MN
30.	Darrell Danyluk, Shawn McLaughlin, and Concord Energy, LLC	McLaughlin (\$450,000); Danyluk (\$350,000); and Concord (\$800,000)	3	filed 2/1/2005 settled 3/12/2007	false reporting and attempts to manipulate	Golden, CO

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
31	Andrew Richmond	\$60,000	1	filed 4/12/2005 settled 3/20/2007	false reporting and attempts to manipulate	Denver, CO
32	Robert Martin, Jeffrey A. Bradley	Martin (\$25,000); and Bradley (\$100,000)	1	filed 2/1/2005 settled Bradley 5/25/2007, and Martin 6/25/2007	false reporting and attempts to manipulate	Tulsa, OK
33	Marathon Petroleum Company LLC	\$1,000,000	1	8/1/2007	attempt to manipulate	Findlay, OH
34	BP Products North America, Inc. ⁴	\$125,000,000	1	filed 6/28/2006 settled 10/25/2007	manipulation, cornering the market, attempts to manipulate	Warrenville, Illinois
35	Paul K. Kelly	\$400,000	1	10/25/2007	attempt to manipulate	Lido Beach, New York

⁴ In a related matter, the U.S. Department of Justice entered into a deferred prosecution agreement with BP America Inc. that includes a criminal penalty of \$100 million, a payment of \$25 million to the U.S. Postal Inspection Consumer Fraud Fund, and restitution of approximately \$53 million.

Citations To The Enforcement Actions Identified Above: *In re Dynegey Marketing & Trade, et al.*, CFTC Docket No. 03-03 (CFTC filed Dec. 18, 2002) (\$5 million civil monetary penalty); *CFTC v. Enron Corp., et al.*, No. H-03-909 (S.D. Tex. filed March 12, 2003) (\$35 million civil monetary penalty); *CFTC v. Hunter Shively*, No. H-03-909 (S.D. Tex. filed March 12, 2003) (\$300,000 civil monetary penalty); *In re El Paso Merchant Energy, L.P.*, Docket No. 03-09 (CFTC filed March 26, 2003) (\$20 million civil monetary penalty); *In re WD Energy Services Inc.*, Docket No. 03-20 (CFTC filed July 28, 2003) (\$20 million civil monetary penalty); *In re Williams Energy Marketing And Trading, et al.*, Docket No. 03-21 (CFTC filed July 29, 2003) (\$20 million civil monetary penalty); *In re Enserco Energy, Inc.*, Docket No. 03-22 (CFTC filed July 31, 2003) (\$3 million civil monetary penalty); *In re Duke Energy Trading And Marketing, L.L.C.*, Docket No. 03-26 (CFTC filed Sept. 17, 2003) (\$28 million civil monetary penalty); *CFTC v. American Electric Power Company, Inc., et al.*, No. C2 03 891 (S.D. Ohio filed Sept. 30, 2003) (\$30 million civil monetary penalty); *In re CMS Marketing Services and Trading Company, et al.*, Docket No. 04-05 (CFTC filed Nov. 25, 2003) (\$16 million civil monetary penalty); *In re Reliant Energy Services, Inc.*, Docket No. 04-06 (CFTC filed Nov. 25, 2003) (\$18 million civil monetary penalty); *In re Harmon*, Docket No. 03-25 (CFTC filed Jan. 16, 2004) (\$8,500 civil monetary penalty); *In re Aquila Merchant Services, Inc.*, Docket No. 04-08 (CFTC filed Jan. 28, 2004) (\$26.5 million civil monetary penalty); *In re Calpine Energy Services, L.P.*, CFTC Docket No. 04-11 (CFTC filed Jan. 28, 2004) (\$1.5 million civil monetary penalty); *In re ONEOK Energy Marketing And Trading Company, L.P., et al.*, Docket No. 04-09 (CFTC filed Jan. 28, 2004) (\$3 million civil monetary penalty); *In re Entergy-Koch Trading, LP*, Docket No. 04-10 (CFTC filed Jan. 28, 2004) (\$3 million civil monetary penalty); *In re e prime, Inc.*, Docket No. 04-12 (CFTC filed Jan. 28, 2004) (a wholly-owned subsidiary of Xcel Energy, Inc.; \$16 million civil monetary penalty); *In re Knauth*, Docket No. 04-15 (CFTC filed May 10, 2004) (\$25,000 civil monetary penalty); *In re Western Gas Resources, Inc.*, Docket No. 04-17 (CFTC filed July 1, 2004) (\$7 million civil monetary penalty); *In re Coral Energy Resources, L.P.*, Docket No. 04-21 (CFTC filed July 28, 2004) (\$30 million civil monetary penalty); *In re Biggs*, Docket No. 04-22 (CFTC filed Aug. 11, 2004) (\$30,000 civil monetary penalty); *In re BP Energy Co.*, Docket No. 05-02 (CFTC filed Nov. 4, 2004) (\$100,000 civil monetary penalty); *In re Cinergy*, CFTC Docket No. 05-03 (CFTC filed November 16, 2004) (\$3 million civil monetary penalty); *In re Mirant*, CFTC Docket No. 05-05 (CFTC filed Dec. 6, 2004) (\$12.5 million civil monetary penalty); *In re McKenna*, CFTC Docket No. SD 05-03 (CFTC May 20, 2005) (registration revocation); *In re Shell Trading US Company, et al.*, CFTC Docket No. 06-02 (CFTC filed Jan. 4, 2006) (\$300,000 civil monetary penalties); *In re Dominion Resources, Inc.*, CFTC Docket No. 06-06 (CFTC Sept. 27, 2006) (\$4,250,000 civil monetary penalty); *CFTC v. Foley*, No. 2:05 849 (S.D. Ohio filed Sept. 14, 2005, settled Sept. 28, 2006) (\$350,000 civil monetary penalty); *CFTC v. McDonald, et al.*, No. 1:05-CV-0293 (N.D. Ga. filed Feb. 1, 2005, settled Nov. 17, 2006) (McDonald and Whalen total \$550,000 civil monetary penalties; still pending against Atha); *CFTC v. NRG Energy, Inc.*, No. 04-cv-3090 MJD/JGL (D. Minn. filed July 1, 2004) (\$2 million civil monetary penalty); *CFTC v. Reed, et al.*, No. 05-D-178 (D. Colo. filed Feb. 1, 2005, settled March 13, 2007) (Danyluk, McLaughlin, and Concord Energy, LLC total \$1.6 million civil monetary penalties; still pending against Reed); *CFTC v. Richmond*, No. 05-M-668 (OES) (D. Colo. filed April 12, 2005, settled March 20, 2007) (\$60,000 civil monetary penalty); *CFTC v. Bradley, et al.*, No. 05CV62-CVE-FHM (N.D. Okla. filed Feb. 1, 2005, settled May 25 and June 25, 2007) (Bradley \$100,000 civil monetary penalty; Martin \$25,000 civil monetary penalty); *In re Marathon Petroleum Company LLC*, CFTC Docket No. 07-09 (CFTC filed Aug. 1, 2007) (\$1 million civil monetary penalty); *CFTC v. BP Products North America, Inc.*, No. 06C 3503 (N.D. Ill. filed June 28, 2006, settled Oct. 25, 2007) (\$125 million civil monetary penalty); and *In re Kelly*, CFTC Docket No. 08-01 (CFTC Oct. 25, 2007) (\$400,000 civil monetary penalty).

III. Enforcement Actions in Litigation:

	ENERGY CASES PENDING	CHARGES	DATE FILED	HEADQUARTERS
1.	Denette Johnson, Courtney Cubbison Moore, John Tracy, Robert Harp, Anthony Dizona and Kelly Dyer	false reporting and attempts to manipulate	February 1, 2005	Houston, TX
2.	Paul Atha – pending <i>Christopher McDonald, and Michael Whalen - settled</i>	false reporting and attempts to manipulate	February 1, 2005 settled 11/17/2006 with McDonald and Whalen	Atlanta, GA Cincinnati, OH
3.	Michael Whitney	false reporting and attempts to manipulate	February 1, 2005	Houston, TX
4.	Matthew Reed - pending <i>Darrell Danyluk, Shawn McLaughlin, and Concord Energy, LLC - settled</i>	false reporting and attempts to manipulate	February 1, 2005 settled 3/12/2007 with Darrell Danyluk, Shawn McLaughlin, and Concord Energy, LLC	Golden, CO
5.	Amaranth Advisors L.L.C., Amaranth Advisors (Calgary) ULC, Brian Hunter	attempt to manipulate, false statements to a board of trade	July 25, 2007	Greenwich, CT Calgary, Alberta Province, Canada
6.	Energy Transfer Partners, LP; Energy Transfer Company (a/k/a/ La Grange Acquisition, L.P.); Houston Pipeline Company; and ETC Marketing, Ltd	attempts to manipulate	July 26, 2007	Dallas, Texas Houston, Texas San Antonio, Texas
Citations To The Enforcement Actions Identified Above: <i>CFTC v. Johnson, et al.</i> , No. H-05-0332 (S.D. Texas filed Feb. 1, 2005) (charging false reporting and attempts to manipulate); <i>CFTC v. McDonald, et al.</i> , No. 1:05-CV-0293 (N.D. Ga. filed Feb. 1, 2005) (charging false reporting and attempts to manipulate; settled Nov. 17, 2006 with McDonald and Whalen; remains pending against Atha); <i>CFTC v. Whitney</i> , No. H 05-333 (S.D. Texas filed Feb. 1, 2005) (charging false reporting and attempts to manipulate); <i>CFTC</i>				

v. Reed, et al., No. 05-D-178 (D. Colo. filed Feb. 1, 2005) (charging false reporting and attempts to manipulate; settled 3/12/2007 with Danyluk, Mclaughlin, and Concord Energy, LLC; remains pending against Reed); *CFTC v. Amaranth Advisors, L.L.C., et al.*, No. '07 CIV 6682 (S.D.N.Y. filed July 25, 2007); and *CFTC v. Energy Transfer Partners, L.P., et al.*, No. 3-07CV1301-K (N.D. Tex. filed July 26, 2007).

V. CFTC/DOJ Criminal Cooperative Enforcement Success

The following examples of criminal cases filed by the DOJ illustrate the success of the CFTC Division of Enforcement's cooperative enforcement in addressing alleged energy markets misconduct.

1. U.S. v. Todd Geiger (S.D. Tex. Dec. 12, 2002)
2. U.S. v. Abbott (D.D.C. June 28, 2006)
3. U.S. v. American Electric Power Company, Inc. (S.D. Ohio Jan. 26, 2005)
4. U.S. v. AEP Energy Services, Inc (S.D. Ohio Jan. 26, 2005)
5. U.S. v. Brian Leville (S.D. Tex. Feb. 10, 2005)
6. U.S. v. Brian Scott McKenna (N.D. Cal. May 20, 2005)
7. U.S. v. Christopher Bakkenist (S.D. Tex. Oct. 6, 2004)
8. U.S. v. Dallas Dean (S.D. Tex. Oct. 6, 2004)
9. U.S. v. Donald Guilbault (S.D. Tex. Oct. 6, 2004)
10. U.S. v. William Ham (S.D. Tex. Oct. 6, 2004)
11. U.S. v. Christopher Joseph McDonald (N.D. Cal. April 13, 2006)
12. U.S. v. Daryll Brown (N.D. Cal. April 31, 2006)
13. U.S. v. Darrell Danyluk (D. Colo. June 6, 2006)
14. U.S. v. Donald E. Burwell (S.D. Tex. Nov. 29, 2004)
15. U.S. v. Forney (N.D. Cal. Aug. 5, 2004)
16. U.S. v. James Brooks (S.D. Tex. Nov. 2, 2005)
17. U.S. v. James Phillips (S.D. Tex. Nov. 29, 2004)
18. U.S. v. Jeffrey Richter (N.D. Cal. Feb. 4, 2003)
19. U.S. v. Jerry Futch (S.D. Tex. Nov. 29, 2004)
20. U.S. v. Joseph Kennedy (W.D. Mo. Aug. 21, 2006)
21. U.S. v. Luke Larsen (W.D. Mo. Aug. 21, 2006)
22. U.S. v. Michael Whalen (N.D. Cal. April 13, 2006)
23. U.S. v. Michelle Valencia (S.D. Tex. Jan. 27, 2003)

24. U.S. v. Michelle Valencia (S.D. Tex. Jan. 2003)
25. U.S. v. Greg Singleton (S.D. Tex. Jan. 2003)
26. U.S. v. Paul Atha (N.D. Cal. April 13, 2006)
27. U.S. v. Reliant Energy Services (N.D. Cal. April 4, 2004)
28. U.S. v. Kevin Franke (N.D. Cal. April 2004)
29. U.S. v. Reggie Howard (N.D. Cal. April 2004)
30. U.S. v. Jackie Thomas (N.D. Cal. April 2004)
31. U.S. v. Lisa Flowers (N.D. Cal. April 2004)
32. U.S. v. Scott Thompson (S.D.N.Y. Sept. 28, 2006)
33. U.S. v. Shawn T. McLaughlin (D. Colo. Aug. 11, 2006)
34. U.S. v. Thomas Anderson (D. Minn. March 1, 2006)
35. U.S. v. Thomas J. Pool (N.D. Cal. Dec. 17, 2004)
36. U.S. v. Timothy Belden (N.D. Cal. Oct. 17, 2002)
37. U.S. v. Timothy Kramer (S.D. Tex. April 10, 2004)
38. U.S. v. Todd Reid (S.D. Tex. April 10, 2004)
39. U.S. v. Todd Bandy (W.D. Mo. Aug. 21, 2006)
40. U.S. v. Wesley C. Dalton (S.D. Tex. Nov. 2, 2005)
41. U.S. v. Williams Power Company (N.D. Cal. Feb. 22, 2006)
42. U.S. v. Mirant (N.D. Cal. July 12, 2007)
43. U.S. v. BP America Inc. (N.D. Ill. Oct. 25, 2007)